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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,288	12/12/2001	Henry L. Griesbach III	16,280-A	8060
23556	7590	12/28/2004	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			PATEL, NIHIR B	
			ART UNIT	PAPER NUMBER

3743

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/020,288	Applicant(s) GRIESBACH ET AL.	
	Examiner Nihir Patel	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on August 11th, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06.04.2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of figure 2 in the reply filed on August 11th, 2004 is acknowledged.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the a micropore developing filler must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 5 6, 7, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadsworth et al. Patent No. WO 9609165A1 in view of LaVon et al. US Patent No. 5,938,648. Referring to claims 1, 4 5 6, 7, 9, and 10, Wadsworth discloses the applicant's invention as claimed with the exception of providing a non-woven web that is treated with a surfactant.

LaVon discloses an absorbent articles exhibiting improved internal environmental conditions that does provide a non-woven web that is treated with a surfactant. Therefore it would be obvious to modify Wadsworth's invention by providing a non-woven web that is treated with a surfactant in order to absorb fluid quicker. It is also obvious to one in the ordinary skill of the art to design a laminate that is a breathable barrier and that complies with ASTM F1 670-95 in order to prevent the spread of viruses/diseases.

Claims 16, 19 20 21, 22, 23, 24, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadsworth Patent No. WO 9609165A1 in view of LaVon et al. US Patent No. 5,938,648 as applied to claim 1 above, and further in view of Langley et al. US Patent Pub. No. 2003/0124324 A1. Referring to claims 16, 19 20, 21 22, 23, 24, and 28, Wadsworth discloses the applicant's invention as claimed with the exception of providing a non-woven web that is treated with a surfactant and thermally bonded at a plurality of bond points to a multi-layer polyolefin

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resin film. LaVon discloses an absorbent articles exhibiting improved internal environmental conditions that provides a non-woven web treated with a surfactant as stated in claim 1 but does not mention the non-woven web being bonded at a plurality of bonding points to a multi-layer polyolefin resin film.

Langley discloses a breathable blood and viral barrier fabric that does provide a non-woven web being bonded at a plurality of bonding points to a multi-layer polyolefin resin film. Therefore it would have been obvious to modify Wadsworth and LaVon inventions by providing a non-woven web being bonded at a plurality of bonding points to a multi-layer polyolefin resin film in order to provide a stronger bond. It is also obvious to one in the ordinary skill of the art to design a laminate that is a breathable barrier and that complies with ASTM F1 670-95 in order to prevent the spread of viruses/diseases.

Claims 2, 11, 12, 15, 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadsworth et al. Patent No. WO 9609165A1 in view of McCormack et al. US Patent No. 6,653,523. Referring to claims 2, 11, 15, and 17, Wadsworth discloses the applicant's invention as claimed with the exception of providing skin layer(s) that comprise CATALLOY polymer.

McCormack discloses a low gauge films and film/nonwoven laminates that does provide skin layer(s) that comprise CATALLOY polymer. Therefore it would be obvious to one in the ordinary skill of the art to modify Wadsworth's invention by providing skin layer(s) that comprise CATALLOY polymer in order provide a stronger hold.

Referring to claims 12 and 25, Wadsworth discloses the applicant's invention as claimed with the exception of providing a skin layer that comprises a percentage of ethylene vinyl acetate.

McCormick discloses a low gauge films and film/non-woven laminates that does provide a skin layer that comprises a percentage of ethylene vinyl acetate. Therefore it would be obvious to modify Wadsworth's invention by providing a skin layer that comprises a percentage of ethylene vinyl acetate in order to provide a stronger hold.

Referring to claims 3 and 18, the applicant claims that at least one layer of the multi-layer film comprises about 35 percent to about 75 percent by weight polyolefin resin and from about 65 to about 25 percent by weight of filler. After thoroughly reading the applicant's specifications (see page 12 lines 17-20) the examiner has found no criticality on why the multi-layer film must comprise about 35 to 75 percent by weight polyolefin and from 65 to 25 percent by weight of filler and therefore the examiner considers the amount of polyolefin and filler a design choice that depends on the desired degree of liquid impermeability.

Claims 13, 14, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadsworth et al. Patent No. WO 9609165A1 in view of Tucker US Patent No. 6,638,636.

Referring to claims 13, 14, 26, and 28, Wadsworth discloses the applicant's invention as claimed with the exception of providing a core layer that comprises a metallocene linear low density polyethylene.

Tucker discloses a breathable multi-layer films with breakable skin layers that does provide a core layer that comprises a metallocene linear low density polyethylene. Therefore it would be obvious to modify Wadsworth's invention by providing a core layer that comprises a metallocene linear low density polyethylene in order to provide a stronger hold.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (703) 306-3463. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (703) 308-0101.

NP
September 17th, 2004


Henry Bennett
Supervisory Patent Examiner
Group 1870